United Nations A/71/1030–S/2017/727

General Assembly
Security Council

Distr.: General
23 August 2017

Original: English

General Assembly
Seventy-first session
Agenda item 31
Prevention of armed conflict

Security Council
Seventy-second year

Letter dated 21 August 2017 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

Upon the instructions of my Government, I am transmitting for your attention the position paper of the Ministry of Foreign Affairs of the Republic of Artsakh (Nagorno-Karabakh Republic) on the policy of Azerbaijan aimed at the isolation of Artsakh (see annex).

I kindly request that the present letter and its annex be circulated as a document of the General Assembly, under agenda item 31, and of the Security Council.

(*Signed*) Zohrab **Mnatsakanyan**
Ambassador
Permanent Representative

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Annex to the letter dated 21 August 2017 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

Position Paper of the Republic of Artsakh on the policy of Azerbaijan aimed at isolation of Artsakh

The allegations of Azerbaijan on the so called illegal nature of economic and other activities in the Republic of Artsakh (Nagorno Karabakh Republic) lack international legal basis and are aimed at justifying Azerbaijan's policy of isolation of Artsakh and collective punishment of its population.

It should be noted that international law does not recognize any limitation over human rights of individuals or groups based on the status of the country of their residence and contains no discriminatory provisions in relation to non-recognized states.

According to the international instruments, in particular the Universal Declaration of Human Rights, the realization of individual and collective human rights and fundamental freedoms including economic and social rights must not be dependent on the status of the territory where peoples live.

Moreover, the UN Covenant on Political and Civil Rights and the UN Covenant on Economic, Social and Cultural Rights empower people to pursue their economic, social and cultural development by the virtue of the right to self-determination. The UN Covenant on Economic, Social and Cultural Rights by its Article 1.2 establishes that "All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence."

The lack of recognition by other states cannot affect the ability of a state to engage in international relations, including carrying out foreign economic activity.

The legitimacy of such engagements has been confirmed by international arbitration practice and recognized by international courts. In particular, when considering the case on Namibia, the UN International Court of Justice has made a conclusion that the legal acts and judicial actions of de facto existing unrecognized states should not be rejected.[1] A similar approach has been applied by the courts of different states, inter alia, by the New York Court on the "*Salimoff & Co. v. Standard Oil of N.Y.*" case of 1933 and the British Court on the "*Carl Zeiss Stiftung v. Rayner & Keeler Ltd.*" (№ 2) case of 1966. These court decisions set up important precedents and were invoked in other similar proceedings.

We have repeatedly pointed out to the destructive and provocative nature of the attempts by the Azerbaijani authorities to involve the international community in the implementation of a policy of isolation of Artsakh that has been officially declared as a priority by the President of Azerbaijan.

The aggression unleashed against Artsakh by Azerbaijan in April 2016 demonstrated that this policy has been an integral part of the overall strategy of Azerbaijan aimed at expelling the indigenous population of Artsakh from its

[1] Advisory Opinion on "Legal Consequences for States of the Continued Presence of South Africa in Namibia (South-West Africa) notwithstanding Security Council Resolution 276 (1970)", which states that "non-recognition should not result in depriving the people of Namibia of any advantages derived from international co-operation".

ancestral homeland. Trying to isolate the Republic of Artsakh in political, economic, cultural and information spheres and prevent people to people contacts, Azerbaijan seeks to create favourable conditions for resumption of hostilities. This is confirmed by the fact that Baku consistently rejects any proposals to reduce tensions and enhance stability and predictability on the Line of Contact, including the agreements reached at the summits in Vienna and St. Petersburg on 16 May and 20 June 2016, respectively.

The logic of confrontation, aggressively imposed by Azerbaijan, is not only a direct threat to peace and security in the South Caucasus, but also undermines the very purposes and principles of the United Nations, including the goal "to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character".

On numerous occasions the authorities of Artsakh expressed their readiness to interact with Azerbaijan in the framework of confidence building measures particularly in areas of economic and environmental cooperation. However, Azerbaijan has always refused all confidence building measures even those that were designed in a status neutral manner.

The actions of Azerbaijan, which refuses to engage in dialogue and promotes isolation, are not aimed at resolving the existing problems in the region, but at their escalation. We firmly believe that dividing lines can be overcome only through the promotion and development of international co-operation based on the principle of inclusion, rather than exclusion.

The idea of the interrelationship between economic prosperity and peaceful and friendly relations among nations permeates international legal instruments on economic, social and cultural rights. As pointed out in Article 55 of the UN Charter "With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote: a. [...] conditions of economic and social progress and development; b. solutions of international economic, social, health, and related problems". Moreover, according to Article 9 of the Charter of Economic Rights and Duties of States "All States have the responsibility to co-operate in the economic, social, cultural, scientific and technological fields for the promotion of economic and social progress throughout the world ..."

The policy of Azerbaijan aimed at isolation of Artsakh is a blatant violation of the right to development, which is rooted in the provisions of the Charter of the United Nations, the Universal Declaration on Human Rights and the two International Human Rights Covenants. The Declaration on the Right to Development defines such right as "an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized" (Article 1).

The right to development can be invoked both by individuals and peoples and includes: full sovereignty over natural resources; self-determination; popular participation in development; equality of opportunity; the creation of favourable conditions for the enjoyment of other civil, political, economic, social and cultural rights.

That very right imposes obligations on States to co-operate with each other in ensuring development and eliminating obstacles to development (Article 3, The Declaration on the Right to Development). Moreover, UN GA resolution 48/141 which established the post of High Commissioner for Human Rights includes the

mandate "to promote and protect the realization of the right to development and to enhance support from relevant bodies of the UN system for this purpose".

The elected authorities of the Republic of Artsakh are ready for such co-operation with UN member states and are taking consistent steps to ensure a stable and transparent framework for economic activity in the Republic. In order to attract foreign investments, policies have been pursued to create a favourable investment climate. Certain tax benefits and guarantees have been established by law. Ongoing reforms did produce positive results: the volume of investments into the economy has increased (there are more than 160 companies in the Republic with foreign participation), annual economic growth has averaged 10 per cent over the past few years, and all planned social programmes are being implemented.

We strongly believe that the people of Artsakh should not remain hostage to Azerbaijan's aggressive policy, which is the main obstacle to the settlement of the Azerbaijani-Karabakh conflict. The unresolved conflict cannot serve as an excuse for the infringement of political, economic and social rights of the population of Artsakh. The authorities of the Republic of Artsakh, for their part, are making every effort to ensure that everyone living in the Republic can equally enjoy all rights and freedoms, enshrined in fundamental international documents, to freely explore and realize his/her potential. By that the authorities of Artsakh contribute to the consolidation of a peaceful, stable and prosperous region of the South Caucasus.